

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA,

Plaintiff, : Case No. 3:06-cr-00177 (1)

-vs- : District Judge Thomas M. Rose
Chief Magistrate Judge Michael R. Merz

HORTENCIA HUERTA,

Defendant.

REPORT AND RECOMMENDATIONS

This case came on for hearing pursuant to the Order of Reference at 2:00 p.m. on Wednesday, December 12, 2007. Defendant was present with her attorney, John Rion.

Upon stipulation of the parties, the report of Dr. Massimo De Marchis, Psy. D., to whom the Defendant had been referred, was admitted in evidence and the record closed with respect to the issue of competency to stand trial. Upon that report, it is respectfully recommended that the Court find the Defendant competent to stand trial.

The Magistrate Judge discussed with Defendant each of the terms and conditions of the Plea Agreement. Having done so, the Magistrate Judge concludes that its execution is her knowing, intelligent, and voluntary act and recommends that it be filed.

Having engaged in the required colloquy under Fed. R. Crim. P. 11, the Magistrate Judge concludes that Defendant's plea of guilty pursuant to the Plea Agreement is knowing, intelligent, and voluntary. Based on the agreed Statement of Facts, the Magistrate Judge recommends that the Court find that there is an adequate factual basis for a finding of guilt of the offense to which Defendant has pled guilty. The Magistrate Judge accordingly recommends that she be found guilty

as charged in Count One (assuming the Court's grants the currently pending Motion to Amend).

Defendant was referred to the United States Probation Office for a presentence investigation and report. Her bond was continued.

December 12, 2007.

s/ **Michael R. Merz**
Chief United States Magistrate Judge

NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within ten days after being served with this Report and Recommendations. Pursuant to Fed. R. Civ. P. 6(e), this period is automatically extended to thirteen days (excluding intervening Saturdays, Sundays, and legal holidays) because this Report is being served by one of the methods of service listed in Fed. R. Civ. P. 5(b)(2)(B), (C), or (D) and may be extended further by the Court on timely motion for an extension. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendations are based in whole or in part upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within ten days after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See United States v. Walters*, 638 F. 2d 947 (6th Cir., 1981); *Thomas v. Arn*, 474 U.S. 140, 106 S. Ct. 466, 88 L. Ed. 2d 435 (1985).